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Retirement Payments

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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS
INITIATIVE CONSTITUTIONAL AMENDMENT

The Attorney General has summarized the proposed measure as follows:

RETIREMENT PAYMENTS, GROSS INCOME TAX. Initiative Constitutional Amendment. Adds Article XXX providing \$60 monthly payments, beginning June 1945, to citizens having required residence, who are sixty years old or over, or totally and permanently disabled, including those in military service, or blind. Recipients prohibited from gainful occupation and required to expend payments. Provides 3 per cent gross income tax on persons and organizations, except non-profit organizations; proceeds distributed between State General Fund and special fund established for payments. Permits increase of payments, reduction and increase of tax, and relaxation of eligibility requirements. Repeals Sales and Use Tax.

State of California,
County (or City and County) of..... } ss.

To the Secretary of State of the State of California:

We, the undersigned, registered and qualified electors of the State of California, residents of the County (or City and County) of....., hereby present to the Secretary of State this petition and hereby propose that the Constitution of the State of California be amended to set up a State system of mutual insurance for total and permanent disability, aged retirement and to aid employment through distribution of purchasing power, by adding a new article to be numbered Article XXX thereof, to read as hereinafter set forth in full, and petition that the same be submitted to the electors of the State of California for their adoption or rejection at the next succeeding general election or as provided by law. The proposed constitutional amendment reads as follows:

California Employment and Retirement Mutual Insurance Plan
ARTICLE XXX

Sec. 1. Every person, including those who become totally and permanently disabled while serving in the armed forces of the United States, and those termed "blind" by law, shall have the right, upon proper application, to receive an annuity payable in monthly installments of \$60.00 during the remainder of his life (such benefits to annuitants totally and permanently disabled while serving in the armed forces to be in addition to any and all benefits to be paid by the Federal Government), upon showing in his sworn statement the following facts:

- (a) That he is a citizen of the United States of America.
- (b) That he is sixty years of age or over; or totally and permanently disabled, or blind as defined by law.
- (c) If a resident on or before July 1st, 1943: that he has been a legal resident of the State of California for at least five years out of the preceding nine years, with one year's residence immediately preceding the date of application.
- (d) If the person has taken up residence after July 1, 1943: that he has been a legal resident of the State of California for at least ten years out of fifteen years immediately preceding date of application.

Annuitants may leave the State for a period not to exceed 90 days in any one year without being disqualified.

(e) That as long as he continues to receive the annuity he will not engage in any occupation, business, or other activity from which a profit, wage, or other compensation is realized or attempted, except as provided in Section 4 hereof, and that he will not support an ablebodied person in idleness except a spouse, or children under 18 years of age, or both, and that he will not pay any person any salary, wages, or other compensation in disproportion to the services rendered.

Sec. 2. Monthly payments of annuities under this article shall begin June 1, 1945.

Sec. 3. Annuities received under the provisions of this article or the right to receive them shall not be alienated by assignment, sale, mortgage, or other hypothecation, and shall be exempt from attachment or execution.

Sec. 4. Nothing in this article shall be construed to prohibit an annuitant from collecting interest, rents, or other revenues from his own investments, provided he does not participate in or contribute to the management or operation of the revenue-producing business or enterprise.

Sec. 5. Any person who accepts an annuity under this article shall not be entitled, for any period for which such annuity is received, to any old age assistance or other aid to which he would otherwise be entitled under State law by the provisions of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit an annuitant from receiving a pension or retirement benefits for services rendered a public or private agency or person, workmen's compensation, unemployment insurance, war veterans' benefits or other benefits earned by him prior to his acceptance of the annuities provided by this article.

Sec. 6. There shall be levied, collected and paid monthly a tax of 3 per centum of the gross income of every person, firm, association, copartnership or corporation and every trust and every trustee in his or its representative fiduciary capacity residing or doing business in California, derived from any and all sources, except that portion of gross income derived from business conducted in commerce between states, but only to the extent the State of California is prohibited from taxing such gross income by the Constitution and laws of the United States.

Sec. 7. The provisions of this article shall not apply to:

- (1) Fraternal benefit societies, orders or associations, operating under the lodge system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for payment of death, sick, accident or other benefits to the members of such societies, orders or associations, and to their dependents or beneficiaries;
 - (2) Corporations, associations, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes;
 - (3) Business leagues, chambers of commerce, labor organizations, boards of trade, civic leagues, and other similar organizations operated exclusively for the benefit of the community or for the promotion of social welfare, and not for commercial trading in any form, and from which no profit inures to the benefit of any private stockholder or individual;
 - (4) Hospitals, infirmaries and sanatoria, from which no profit inures to the benefit of any private stockholder or individual;
 - (5) Individuals or organizations receiving money or property to be held in custody or as a deposit for others without pecuniary benefit to the holder of such money or property; but not trustees in their representative capacity, who are herein above expressly declared to be subject to the provisions of this article.
 - (6) Gross income on sales to the United States or any agency or instrumentality thereof except a corporate agency or a corporate instrumentality;
- Provided, however, that exceptions (1) to (5), inclusive, shall apply only to the gross income received from non profit activities and transactions.

Sec. 8. The taxes imposed by this article shall be administered and collected by the State Board of Equalization and said Board is hereby empowered to require all persons, firms, associations, copartnership or corporation, trusts and trustees to register and designate the manner and place for filing returns and payment of taxes, and shall provide such simplified forms and instructions and regulations as may be necessary for the proper administration of this article.

From and after March 1, 1945, tax returns shall be made monthly, and all taxes shall be due and payable on or before the last day of the succeeding month.

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against the Board of Equalization, or any member or officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this article, but after payment thereof action may be maintained to recover, in such manner as may be provided by law, any tax claimed to have been illegally collected.

Wilful violation of the requirement to make a tax return or to make a payment of tax, as required hereby, shall be a misdemeanor punishable by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Wilful making or filing of a false tax return by a taxpayer, or of a false affidavit by a recipient of any benefit under this article with intent to defraud, shall be a misdemeanor, punishable by a fine not exceeding \$500.00 or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

All penalties received under this article shall be sent without delay by the person receiving them to the State Treasurer to be deposited in the State Treasury to the credit of the Employment and Retirement Mutual Insurance Fund.

Sec. 9. (a) Out of the total gross income tax receipts collected under this article, twenty percent (20%) thereof, but not exceeding one hundred million dollars per year, shall be deposited in the State General Fund (but such moneys shall be kept in a separate account to be expended for the support of the State Government functions and the public school system, which are now financed by revenues received under the Sales and Use Tax Law (which is repealed by this article) and no part of the moneys in this account shall be used by the State for old age assistance, aid to the needy blind, as defined by law, or for totally and permanently disabled persons). All gross income tax receipts over one hundred million dollars, or all such receipts not deposited in the General Fund as herein directed, shall be deposited in a special fund to be known as the Employment and Retirement Mutual Insurance Fund to be expended solely for the purposes of this article and the proper administration thereof.

(b) If the gross income tax produces over one billion dollars annually, ten percent (10%) of all tax receipts over one billion dollars annually shall be deposited in the General Fund as an addition to the maximum of one hundred million dollars annually provided for in subdivision (a) of this section, to be used proportionately for the purposes enumerated in said subdivision.

Sec. 10. Any balance remaining each month in the Employment and Retirement Mutual Insurance Fund after payment of the minimum annuity of \$60.00 monthly to all annuitants and the proper cost of administration, shall be divided equally among, and paid the following month to the qualified recipients, in addition to the \$60.00 minimum payment due at that time.

Sec. 11. If the sum raised by the 3% gross income tax shall be insufficient to pay the minimum monthly annuity of \$60.00, then the Board of Equalization shall increase the rate of the gross income tax to raise the additional amount required to meet the minimum payments, except that the rate shall not exceed 5%.

Sec. 12. (a) The annuity shall be spent within the United States, its possessions or territories.

(b) Each monthly installment of the annuity shall be spent by the annuitant within 30 days after the time of its receipt. This subsection shall not become operative until

six months following cessation of hostilities of the present war.

(c) Each annuitant shall, at the time he receives his monthly installment, execute the affidavit attached thereto to the effect that he has complied with the provisions of subdivision (b) of this section in respect to any annuity installment theretofore received by him.

Sec. 13. The State Social Welfare Board shall administer and handle the qualifying of recipients and the disbursing of annuities. It is authorized to prescribe such rules and regulations as may be necessary to carry out the provisions of this article with regard to eligibility of recipients and issuance of warrants to them and pointing out in a simplified clear-cut manner their rights and responsibilities when making the affidavits.

The determination as to eligibility to receive such annuities shall be subject to review by a court of competent jurisdiction.

Sec. 14. The Legislature may lower the residence and age requirements provided in this article, include widows with minor children as eligible recipients, extend the annuity in whole or in part to those persons partially and not permanently disabled.

Sec. 15. Adequate funds shall be made available to the Board of Equalization and the State Social Welfare Board for the full and proper administration of this article.

Sec. 16. The California Sales and Use Tax Law is repealed as of March 1, 1945 when the gross income tax as provided herein shall become operative. Expenses of state for payment of old age assistance, blind aid, school and educational operations and other social activities paid for from revenues derived from the Sales and Use Tax shall be paid from the State "General Fund" during the period of March 1, 1945 to June 1, 1945, on which latter date disbursements from funds accumulated through the application of this article shall begin.

No state tax other than the California Sales and Use Tax is directly or impliedly repealed by this article.

Sec. 17. If and when the United States Government enacts legislation making uniform grants and providing for uniform payments to all citizens, under a system similarly financed and operated, with similar qualifications and requirements for the receipt of benefits therefrom, to those provided for in this article, the amount of such Federal grants or payments shall be deducted from the total amounts that would otherwise be payable to recipients of benefits under this article. The State Board of Equalization shall then lower or decrease the rate of tax provided for by this article, by a sufficient amount or proportion, to reduce the total amount of money to be raised by the Gross Income Tax provided for in this article, by an amount that shall be as nearly as possible equal to the amount that will so be paid by the Federal Government to all of the recipients of benefits under this article. The Board of Equalization is expressly authorized to make such reduction in the rate of such tax. It is the intent of this section that if such provision shall be made by the Federal Government hereafter, then the amount of the money to be raised by the tax provided for hereby, and the amounts of the benefits to be paid hereunder, thereafter, when added respectively to the amounts of money so provided by the Federal Government and the amounts of the benefits to be paid or provided by it, shall be equal to the respective amounts that would at that time have been raised by taxation and paid as benefits, by this article, in case the Federal Government had made no such contribution or provision.

Sec. 18. In the event that any decision or order of any court shall hold invalid or unconstitutional any provision, section, subsection, sentence, clause or phrase of this article, or the application thereof to any person or circumstance, such decision or order shall not affect the validity of the remaining portions of this article, and the remaining portions of this article and the application of such provisions to other persons or circumstances shall not be affected thereby. The people of the State of California do hereby declare that they do adopt and would have adopted this article and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.